

IN THE MATTER OF CHRISTOPHER JOHN MILLER, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. A G Gibson (in the Chair)

Mr. A Gaynor-Smith

Dame Simone Prendergast

Date Of Hearing: 22nd October 1996

FINDINGS

of the Solicitors' Disciplinary Tribunal
constituted under the Solicitors Act 1974

An application was duly made on behalf of the Solicitors Complaints Bureau (subsequently the Office for the Supervision of Solicitors) by Roger Field solicitor of Inhedge House, Wolverhampton Street, Dudley, West Midlands, on the 25th June 1996 that Christopher John Miller of Messrs Millers, 30 Princethorpe Road, London, SE26 4PF solicitor might be required to answer the allegations contained in the statement which accompanied the application and that such Order might be made as the Tribunal should think right.

The allegation was that the respondent had failed, notwithstanding the provisions of Section 34 of the Solicitors Act 1974 and the Rules made thereunder, to deliver within time Accountants' Reports in respect of his practice as a solicitor and that by reason thereof he had been guilty of conduct unbecoming a solicitor.

At the opening of the hearing the applicant told the Tribunal that since his initial statement had been prepared further matters had been drawn to his attention which were relevant to the allegation and an additional statement was filed with the Tribunal at the hearing, to which the respondent had no objection.

The application was heard at the Court Room No.60 Carey Street, London WC2 on the 22nd October 1996 when Roger Field solicitor and partner in the firm of Messrs. Higgs & Sons of Inhedge House, 31 Wolverhampton Street, Dudley, West Midlands appeared for the applicant and the respondent appeared in person.

The respondent made an application that the hearing might take place in private. The applicant explained to the Tribunal that he had suffered from medical problems which had not been made known to his family and which he did not wish to reveal. They were important, however, in the mitigation which he wished to place before the Tribunal. The applicant raised no opposition to the application. The Tribunal agreed that the matter might be heard in private.

The evidence before the Tribunal included the admissions of the respondent.

At the conclusion of the hearing the Tribunal ORDERED that the respondent Christopher John Miller of Messrs. Millers, 30 Princethorpe Road, London SE26 be suspended from practice as a solicitor for an indefinite period to commence on the 22nd October 1996 and they further Ordered him to pay the costs of and incidental to the application and enquiry fixed in the sum of £712.00 inclusive.

The facts are set out in paragraphs 1 to 5 hereunder:-

1. The respondent, born in 1958, was admitted a solicitor in 1982. At the material times he practised on his own account under the style of Millers at 30 Princethorpe Road, London SE26.
2. The Solicitors Complaints Bureau (the Bureau) wrote to the respondent on 30th June 1995 pointing out that his Accountant's Reports for the years ending 30th September 1993 and 30th September 1994 and for the half year ending 31st March 1995 were outstanding.
3. A condition had been imposed upon the respondent's Practising Certificate for 1994/1995 requiring him to lodge, by 16th March 1995 the outstanding Report for the year ending 30th September 1993 and that thereafter he lodge half yearly reports. The respondent having been sent the usual Report the Conduct Committee of the Adjudication and Appeals Committee of the Bureau considered the matter at their meeting on 1st November 1995. They rebuked the respondent severely for the late delivery of his Accountant's Report for the year ending 30th September 1993, the delay at that date in lodging the Accountant's Report for the year ending 30th September 1994 and the half yearly Report for the period ending 31st March 1995, and in respect of his having practised in breach of the condition imposed upon his Practising Certificate. Further the Committee expected the respondent to file the outstanding Accountants' Reports within twenty eight days of his being notified of the Committee's decision. If he failed then his conduct was to be referred to the Tribunal without further notice.
4. The Bureau informed the respondent of the decision by letter of 17th November 1995, receipt of which was acknowledged by the respondent. He acknowledged the delay in dealing with Accountants' Reports and requested an extension of time. That was

treated as an appeal against part of the decision of the Conduct Committee and the Appeals Committee of the Adjudication and Appeals Committee dismissed the appeal after considering it on 6th March 1996.

5. The Bureau wrote to the respondent on 29th March 1996 informing him of the Committee's decision emphasising the implications of the respondent's failing to deal with the outstanding Reports. He did not respond to the letter. The outstanding Reports remained undelivered and at the time of the hearing the Report for the period ending 30th September 1995 and 31st March 1996 had not been lodged.

The submissions of the applicant

6. It was accepted that the delay to be considered by the Tribunal was that from the date of the severe rebuke of the respondent, to take into account the earlier delay would have placed him in a position of double jeopardy.
7. Accountant's Reports for the year ending September 1994 had not been filed at all and three subsequent Reports falling due at the end of March 1995, the end of September 1995 and the end of March 1996 had not been filed. It was the obligation of a solicitor to file six monthly Reports within two months of the date of the end of the six monthly period to which the Report related. There were therefore four Accountant's Reports outstanding.
8. In addition to not filing the Reports, the respondent was in breach of a specific condition on his Practising Certificate.
9. The applicant accepted that a solicitor might have problems of a financial nature or otherwise but the fact remains that if a solicitor could not cope with practice or afford to comply with the requirements of practice, the only course open to him was to give up.

The submissions of the respondent

10. The respondent had been made redundant in 1990. He had suffered an upsetting bereavement and he thought that to start in practice on his own account would be a positive step. He did not employ anybody and undertook all of the work himself from his home.
11. The respondent in practising in that manner felt somewhat isolated and believed things "started to slip". The respondent suffered a further distressing bereavement followed by serious health problems leading to a debilitating depression. He found it very hard to get motivated. He also had considerable financial difficulties.
12. The respondent had found himself in a position where debts were mounting up and he was not able to afford the Practising Certificate fee. He then decided to cease practice.
13. The respondent accepted that he had not filed Accountants' Reports as he should have done but his accounts had been found to be in order following a Monitoring Unit visit.

14. The respondent had run away from the problem. He apologised. He invited the Tribunal to give credit for the fact that none of his clients had made any complaint.
15. The respondent had sought advice from the Ethics Department of the Law Society: he had passed over clients' files in accordance with that advice and had co-operated with the conveyancer who had taken them over.
16. The respondent hoped that he might in the future be employed in private practice and told the Tribunal that he no longer had any wish to deal with practice administration.

The Tribunal FOUND the allegation to have been substantiated.

It is very important for a solicitor to comply with all regulatory requirements required of him by dint of the fact that he is a solicitor. The respondent had appeared before the Tribunal whilst still in breach of those obligations apparently with no plan to put matters right. In the circumstances the Tribunal considered it right to suspend the respondent from practice for an indefinite period of time making it plain to the respondent that the Tribunal would be unlikely to consider an application to lift the suspension unless the respondent was able to demonstrate that he had put his house in order. The Tribunal further Ordered that the respondent pay the applicant costs in a fixed sum.

DATED this 2nd day of December 1996

on behalf of the Tribunal

A G Gibson
Chairman

